

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

STEPHANIE A. TASHIRO-TOWNLEY AND)
SCOTT C. TOWNLEY, husband and wife)

Plaintiffs,)

v.)

COUNTRYWIDE MORTGAGE COMPANY)
(and its subsidiaries); BAC HOME LOANS;)
MORTGAGE ELECTRONIC)
REGISTRATION SYSTEMS INC.; LITTON)
LOAN SERVICING LLP; BANK OF NEW)
YORK MELLON f/k/a BANK OF NEW)
YORK, TRUSTEE FOR)
CERTIFICATEHOLDERS CWL, INC. 2005-)
10; And other unknown (at this juncture)
parties, herein designated as DOES 1 through)
100)

Defendants,)

Case No. 2:10-cv-01720-JCC

**DEFENDANTS' BANK OF NEW
YORK MELLON, LITTON LOAN
SERVICING, AND MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS' MOTION FOR
SANCTIONS PURSUANT TO F.R.C.P.
26(g)**

Hearing Date: February 4, 2011

I. RELIEF REQUESTED

COMES NOW Defendants The Bank of New York Mellon f/k/a The Bank of New York
as Trustee for the Certificateholders CWL, Inc. Asset-Backed Certificates, Series 2005-10
("Bank of New York," erroneously named in the Complaint), Litton Loan Servicing, LP
("Litton," erroneously named in the Complaint), and Mortgage Electronic Registration Systems,
Inc. ("MERS"), collectively "Defendants," and move this court for an order granting sanctions
against Plaintiffs pursuant to F.R.C.P. 26(g).

1 **II. STATEMENT OF THE FACTS**

2 On November 16, 2010, Plaintiffs filed their original Complaint. *See* Dkt. No. 10. On
3 December 3, 2010, Plaintiffs appeared at the office of non-party Northwest Trustee Services, Inc.
4 with an alleged subpoena demanding inspection of documents. *See* Exhibit 1.

5 On December 8, 2010, the Court set a discovery scheduling conference for February 15,
6 2011. *See* Dkt. No. 17. On January 6, 2011, the Court issued an Order granting Plaintiffs'
7 motion to amend their Complaint. *See* Dkt. No. 29. Said Amended Complaint has not been
8 served on Defendants.

9 On or about January 11, 2011, Plaintiffs served Defendants' counsel with their "First
10 Interrogatories and Requests for Production" to Defendant Bank of New York. *See* Exhibit 2.
11 Both Plaintiffs signed this demand.

12 **III. ISSUE PRESENTED**

13 1. Whether the Court should grant sanctions against Plaintiffs for improper
14 discovery demands?

15 **IV. EVIDENCE RELIED UPON**

16 Defendants respectfully request that the Court consider, in ruling upon this motion:

- 17 1. The argument contained herein, and exhibits attached hereto;
18 2. Sworn Declaration of Counsel. *See* Exhibit 3.

19 **V. AUTHORITY AND ARGUMENT**

20 **A. TIMING AND CERTIFICATION OF DISCOVERY**

21 F.R.C.P. 26(d) provides that:

22 a party may not seek discovery from any source before the parties have conferred as
23 required by Rule 26(f), except in a proceeding exempted from initial disclosure under
24 Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.

Under F.R.C.P. 26(f), the parties “must confer as soon as practicable – and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under Rule 16(b).”

F.R.C.P. 26(g)(1) states, in relevant part,

[e]very disclosure under Rule 26(a)(1) or (a)(3) and every discovery request, response, or objection must be signed... by the party personally, if unrepresented.... By signing, an attorney or party certifies that to the best of the person’s knowledge, information, and belief formed after a reasonable inquiry:

[...]

(B) with respect to a discovery request, response, or objection, it is:

- (i) consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law;
- (ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
- (iii) neither unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

Failure to adhere to this rule without substantial justification requires the Court to impose “an appropriate sanction on the signer,” which can include “reasonable expenses, including attorney’s fees, caused by the violation.” *See* F.R.C.P. 26(g)(3).

B. PLAINTIFFS’ INTERROGATORIES AND REQUESTS FOR PRODUCTION ARE NOT PROPOUNDED IN ACCORDANCE WITH COURT RULES

In this case, Plaintiffs served discovery demands on Defendants’ counsel in violation of F.R.C.P. 26(d)(1). Plaintiffs have thus far refused to communicate with Defendants’ counsel telephonically; as such, the parties have been unable to confer in advance of the scheduling conference. Moreover, Defendants have not been served with Plaintiffs’ Amended Complaint, making any response thereto impracticable.

1 Additionally, Plaintiffs' discovery demands are wholly frivolous and overbroad, in light
 2 of the claims presented. Plaintiffs demand everything from the production of an "original blue
 3 ink adjustable rate note," to title insurance documents, IRS documents, and various accounting
 4 procedures. *See* Exhibit 2. If Plaintiffs' demands did not violate the above-referenced Court
 5 Rules, then Defendants would certainly bring a motion for protective order pursuant to F.R.C.P.
 6 26(c).
 7

8 **C. THE COURT SHOULD SANCTION PLAINTIFFS**

9 Defendants ask the Court to impose sanctions against Plaintiffs for their improper and
 10 untimely discovery demands, which have resulted in the additional time and expense of review
 11 and this response. As set forth in the attached Declaration of Counsel, attorneys' fees for said
 12 work have been incurred in the amount of \$370.50. *See* Exhibit 3.
 13

14 Additionally, the Court should strike Plaintiffs' "First Interrogatories and Requests for
 15 Production," and not require Defendants to answer them. Upon proper service of Plaintiffs'
 16 Amended Complaint, Defendants intend to file a dispositive motion pursuant to F.R.C.P.
 17 12(b)(6), and it would be unduly burdensome to require discovery responses prior to
 18 consideration of such pleading.
 19

20 **VI. CONCLUSION**

21 Plaintiffs have violated F.R.C.P. 26(d)(1) and advanced unwarranted discovery demands
 22 on Defendants. Plaintiffs should be held accountable for these willful actions.
 23

24 //

25 //

26 //

 ///

VII. PROPOSED ORDER

A proposed order granting the requested ruling accompanies this motion.

DATED this 19th day of January, 2011.

ROUTH CRABTREE OLSEN, P.S.



Joshua S. Schaer, WSBA #31491

Attorneys for The Bank of New York
Mellon f/k/a The Bank of New York as
Trustee for the Certificateholders CWL, Inc.
Asset-Backed Certificates, Series 2005-10;
Litton Loan Servicing, LP; and Mortgage
Electronic Registration Systems, Inc.

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

Western

DISTRICT OF

Washington

Scott C Townley / Stephanie A Tashiro-Townley

SUBPOENA IN A CIVIL CASE

V.

BANK OF NEW YORK MELLON

Case Number:¹ C10-1720

TO: Northwest Trustee Services
 13555 SE 36th Avenue, #100
 Bellevue, WA 98006

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Stamp all documents certified in Foreclosure File - Written Notice of Default, Transmitted to Beneficiary and Grantor, Evidence of first class mail and certified mail on or before Copy of Process Server, Copy of Advertisements in public journals, newspapers, etc., Certified copy of financial statement, and any other papers in the file for 23639 SE 267th pl.

Maple Valley WA 98038

PLACE Northwest Trustee Services, Inc., 13555 SE 36th Place #100, Bellevue, WA 98006	DATE AND TIME 12/3/2010 8:30 am
--	------------------------------------

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>[Signature]</i>	12/3/10
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
23639 SE 267th pl. Maple Valley WA 98038	

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SCOTT C. TOWNLEY
STEPHANIE A. TASHIRO-
TOWNLEY

Plaintiffs,

vs.

COUNTRYWIDE MORTGAGE
COMPANY (and its
subsidiaries); BAC HOME
LOANS; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS INC.;
LITTON LOAN SERVICING LLP;
BANK OF NEW YORK MELLON,
f/k/a BANK OF NEW YORK,
TRUSTEE FOR CERTIFICATE
HOLDERS CWL, INC., 2005-10;

And other unknown (at this
juncture) parties, herein
designated as DOES 1
through 100

Defendants

No. C10-1720

PLAINTIFF'S FIRST

INTERROGATORIES AND

REQUESTS FOR PRODUCTION TO

DEFENDANT BANK OF NEW YORK

MELLON, f/k/a BANK OF NEW

YORK, TRUSTEE FOR

CERTIFICATE HOLDERS CWL,

INC., 2005-10

C10-1720 - FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION - BANK OF NEW
YORK MELLON

Scott C. and Stephanie Tashiro-Townley
23639 SE 267th Place,
Maple Valley, WA 98038

1 To: BANK OF NEW YORK MELLON, f/k/a BANK OF NEW
 2 YORK, TRUSTEE FOR CERTIFICATE HOLDERS CWL, INC., 2005-
 3 10, by and through Attorney of record Joshua Schaer
 4 COMES NOW Plaintiffs Scott C Townley and
 5 Stephanie A Tashiro-Townley (hereinafter "plaintiffs")
 6 and hereby propound the following interrogatories and
 7 requests for production to be answered by Defendant,
 8 BANK OF NEW YORK MELLON f/k/a BANK OF NEW YORK,
 9 TRUSTEE FOR CERTIFICATE HOLDERS CWL, INC., 2005-10
 10 under oath, and within thirty (30) days after service.
 11

12 INTRODUCTION AND DEFINITIONS

14 A. Identification of Documents, Communications, and
 15 Persons.

16 1. When asked to identify a document, please do the
 17 following, unless you are producing the document and
 18 this information is available on the document
 19 produced.

- 20 (a) Identify the author;
- 21 (b) Identify the addressee;
- 22 (c) Identify all persons who received copies;
- 23 (d) Identify all persons who currently have copies
- 24 (e) If a responsive document not longer exists or is
 25 not available, when was it disposed of, and who
 26 disposed of it;
- 27 (f) State the date the document was created;
- 28 (g) State the subject matter of the document
- 29
- 30

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3
4 **B. Claim of Privilege.**

5 If you claim any privilege with respect to any
6 information sought by this or other discovery request,
7 or any part thereof state the nature of the privilege
8 claimed, state in full the basis for the claim of
9 privilege, identify the communication, document, or
10 other item as to which a privilege is claimed, and
11 state the subject matter thereof. If you claim a
12 privilege with respect to only a portion of a
13 discovery request, please answer those portions of the
14 request for which you do not claim a privilege.
15

16
17 **C. Definitions.**

18 1. The word "describe" when used in reference to
19 matters of fact means to state every material fact and
20 circumstances specifically and completely (including,
21 but not limited to, date, time, location and the
22 identity of all participants) and whether each such
23 fact or circumstance is stated on knowledge,
24 information, or belief, or is alleged without
25 foundation.

26 2. The words "document" shall mean any book,
27 pamphlet, periodical, report, letter, memorandum,
28 diary, message, telegram, email, cable, record, study,
29
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1 chart, picture, drawing, sketch, photograph, index
2 tape, videotape, or graphic matter however produced or
3 reproduced.
4

5 **D. Duty to supplement requests/documents.**

6 1. The following requests for production are
7 continuing and require you, to the extent required by
8 Cr 26(e), to supplement the production with additional
9 documents if you, your employer, your fellow
10 employees, any associates, agents, affiliates, casual
11 acquaintances, or attorneys gain access to additional
12 information/documents, which may be responsive to
13 these requests. In other words, any information or
14 documents you think of or gain access to or gain
15 knowledge to/about after submitting responses to the
16 instant requests or completed document to the
17 plaintiff then you, your employer, your fellow
18 employees, any associates, agents, affiliates, casual
19 acquaintances, or attorneys are obligated to produce
20 said additions for/to plaintiff.
21

22 2. Also, consistent with Washington's
23 interpretations of discovery, whereas, the spirit and
24 intent of discovery is that parties should make all
25 efforts to communicate in said discovery process in
26 order to avoid court involvement in accessing
27 discovery, therefore, please contact the plaintiff if
28 you have any questions regarding the instant discovery
29
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1 submission as that relates to any confusing
2 perceptions, vagueness, ambiguous, defective, etc.,
3 you believe exists which might delay production of
4 said instant requests. As such, please feel free to
5 contact the plaintiff promptly with any questions you
6 may have before the expiration of 30 days (thirty
7 days) from receipt of the instant document.

8 3. Note: The requests for production of documents is
9 predicated on the reasonable conclusion the Defendant
10 obtains and/or utilizes documents in the normal course
11 of business; albeit, within its day to day activities
12 through managing the said trust (CWL, Inc. Asset-
13 Backed Certificates, Series 2005-10), including all
14 documents regarding the conveyance and insurance of
15 those mortgages; inclusion of mortgages into mortgage
16 pools before Pooling and Servicing Agreement (PSA)
17 close date; any and all documents required by the
18 Securities and Exchange Commission (SEC) and the
19 Office of the Comptroller (OCC) in managing trusts and
20 the mortgage pools within; and any tax documentation
21 filed with the IRS pertaining to taxes paid on
22 proceeds made by the selling of trust.
23

24
25
26 **YOU ARE HEREBY DIRECTED to produce the following**
27 **designated documents, objects, tangible things,**
28 **and/or electronically stored information, etc., in**
29
30

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REQUEST FOR PRODUCTION - BANK OF NEW
YORK MELLON

Scott C. and Stephanie Tashiro-Townley
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1 ***your possession or under your control or access***
2 ***regarding the following listed items:***
3

4 **REQUEST FOR PRODUCTION NO. 1:** Produce the original
5 blue ink Adjustable Rate Note for the property
6 commonly known as: "23639 SE 267th Place, Maple Valley,
7 WA 98038" (hereafter designated as "subject
8 property"). This includes copies of the front and
9 backsides of the documents/note showing all
10 endorsements and chain of title.

11 RESPONSE:
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14 **REQUEST FOR PRODUCTION NO. 2:** Produce the original
15 Assignment of Mortgage document transferring the
16 Adjustable Rate Note for the subject property from
17 Countrywide to Bank of New York Mellon. Note, if
18 properly filed in the King County Recorder office, the
19 document will show the date designating when it was
20 filed.

21 RESPONSE:
22
23

24 **REQUEST FOR PRODUCTION NO. 3:** Produce a certified copy
25 the original Pooling and Servicing Agreement for CWL
26 Inc., Asset Backed Certificates, Series 2005-10 from
27 the year 2005, noting claims relevant to the subject
28 property and/or claims against said subject property
29 which will contain a valid SEC filing date and number.

30 RESPONSE:

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23639 SE 267th Place,
Maple Valley, WA 98038

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4 **REQUEST FOR PRODUCTION NO. 4:** Produce a certified copy
5 of the original "Right of Rescission" document
6 allegedly disclosed to Plaintiffs after the transfer
7 of the Adjustable Rate Note for the subject property
8 stating transfer of loan from Countrywide to Bank of
9 New York Mellon; including with a sworn affidavit
stating who sent it, the date said document was sent
and to whom (the entity and agent's name) said
document was sent.

10 RESPONSE:
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15 **REQUEST FOR PRODUCTION NO. 5:** Produce a certified copy
16 of the original for all extensions and addendums
17 relating to the Pooling and Servicing Agreement for
18 CWL Inc. Asset Backed Certificates, Series 2005-10
from 2005 to current date.

19 RESPONSE:
20
21

22 **REQUEST FOR PRODUCTION NO. 6:** Produce all Securities
23 Exchange Commission (SEC) filings for the Trust CWL
24 Inc. Asset Backed Certificates, Series 2005-10
25 including but not limited to Forms 8K and 10K from
26 2005 to current with a sworn affidavit by the Bank of
27 New York Mellon employee responsible for filing all of
the SEC filings stating the name of the documents
filed, the date said documents were filed and a brief
description of the contents of said documents.

28 RESPONSE:
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5 **REQUEST FOR PRODUCTION NO. 7:** Produce a certified copy
6 of the original Declaration of Beneficiary document
7 with a signed sworn affidavit stating when the
8 document was created, name and address it was sent to
and the date it was sent.

9 RESPONSE:
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12

13 **REQUEST FOR PRODUCTION NO. 8:** Produce a certified copy
14 of the current lenders; namely, Bank of New York
15 Mellon's title insurance policy supporting ownership
16 (in due course) of the Adjustable Rate Note regarding
17 the subject property (for your clarification said
18 "note" is assumed to designate the amount of
+\$297,000).

19 RESPONSE:
20
21

22 **REQUEST FOR PRODUCTION NO. 9:** Produce a certified copy
23 of the servicing agreement between Bank of New York
24 Mellon and Countrywide (servicing branch) from the
25 year 2005 as said service agreement would relate to
26 the authority the subject property and the contractual
27 agreement to service said subject property.

28 RESPONSE:
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REQUEST FOR PRODUCTION - BANK OF NEW
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23639 SE 267th Place,
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4 **REQUEST FOR PRODUCTION NO. 10:** Produce a certified
5 copy of the servicing agreement between Bank of New
6 York Mellon and Litton Loan Servicing from the year
7 2008 to the present regarding the subject property.

8 RESPONSE:
9
10
11

12 **REQUEST FOR PRODUCTION NO. 11:** Produce the original or
13 a certified copy of the original Prospectus for the
14 trust CWL, Inc., Asset Based Certificates, Series
15 2005-10 and the Pooling and Collateral agreement
16 and/or Servicing Participation Agreement between Bank
17 of New York Mellon and the following servicers:
18 Countrywide, Litton Loan and/or MERS from 2005 to
19 date.

20 RESPONSE:
21
22

23 **REQUEST FOR PRODUCTION NO. 12:** Produce the certified
24 copy of the original title insurance policy showing
25 the coverage and conveyance of ownership of the
26 subject property from Countrywide to Bank of New York
27 Mellon that shows the full conveyance of the
28 Adjustable Rate Note assumed, including the Indemnity
29 for insurance and the insurance itself from 2005 to
30 the present regarding the subject property.

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REQUEST FOR PRODUCTION - BANK OF NEW
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1 RESPONSE:

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4
5 **REQUEST FOR PRODUCTION. 13:** Produce certified copy of
6 IRS documents, including but not limited to, form 1066
7 and IRS documents showing the amount of revenue from
8 sales and interest earned regarding CWL, Inc. Asset-
9 Backed Certificates, Series 2005-10 from 2005 through
10 2009 and sworn affidavit by Bank of New York Mellon
11 tax accountant with the dates of submission /
transmittal to the IRS and confirmation of receipt
from IRS of said documents.

12 RESPONSE:

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16 **INTERROGATORY NO. 1:** Please state the names, addresses
17 and contact information for the President, Vice
18 President, and Executive Vice Presidents of Defendant
Bank New York Mellon from 2005 to 2010.

19
20 RESPONSE:

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24 **REQUEST FOR PRODUCTION NO. 14:** Produce copies all
25 correspondence(s), email(s), offer(s)s, contract(s),
26 negotiation(s) between Bank of New York Mellon and
27 Countrywide from July 1, 2005 through December 31,
28 2005, related to the sale/acquisition of the
Adjustable Rate Note regarding the subject property,
for the inclusion in the CWL, Inc. Asset-Backed
29 Certificates, Series 2005-10 mortgage pool by

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1 Defendant Bank of New York Mellon from Countrywide
2 Home Loans.

3 RESPONSE:
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7 **REQUEST FOR PRODUCTION NO. 15:** Produce a certified
8 copy of the original final contract, including terms
9 and conditions of the sale of Adjustable Rate Note for
10 the subject property from Countrywide to Bank of New
York Mellon in 2005.

11 RESPONSE:
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16 **REQUEST FOR PRODUCTION NO. 16:** Produce copies of all
17 correspondence(s), email(s), offer(s), contract(s),
18 negotiation(s) between Bank of New York Mellon and
Litton Loan Servicing from June 2008 to August 2009,
19 related to the Plaintiffs' loan modification and loss
mitigation requests regarding loan for subject
20 property.

21 RESPONSE:
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26 **REQUEST FOR PRODUCTION NO. 17:** Produce copies of all
correspondence(s), email(s), contract(s), and/or
27 negotiation(s) between Bank of New York Mellon and
Northwest Trustee regarding the Appointment of
28 Successor Trustee from January 2009 to August 2009
29 regarding the subject property—including any money or
30

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1 monies having changed hands between the aforementioned
2 entities.

3 RESPONSE:
4
5

6 **REQUEST FOR PRODUCTION NO. 18:** Produce certified
7 copies of General Accepted Accounting Procedures
8 (GAAP) as regulated by the Office of the Comptroller
9 (OCC) regarding the deposit loan account #109684989,
10 whether interest-bearing and/or non-interest bearing
11 account(s), escrow(s), reserve(s) and suspense
12 account(s) managed by Defendant Bank of New York
13 Mellon as serviced by Countrywide and Litton Loan
14 Servicing during the servicing of the subject
15 property's loan from years 2005 through 2009.

16 RESPONSE:
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19 **REQUEST FOR PRODUCTION NO. 19:** Produce certified
20 copies of all original documentation and full
21 accounting regarding all monies paid and received at
22 the time of transfer of ownership from Countrywide to
23 Bank of New York Mellon of the Adjustable Rate Note
24 showing "paid in full" for the subject property and,
25 if available, also, the same, but not limited to
26 parties, sources, agreements, and contracts, written
27 or verbal.

28 RESPONSE:
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31 **REQUEST FOR PRODUCTION NO. 20:** Produce certified
32 copies of all original documentation(s) and full
33 accounting regarding all monies paid and received from

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REQUEST FOR PRODUCTION - BANK OF NEW
YORK MELLON

Scott C. and Stephanie Tashiro-Townley
23639 SE 267th Place,
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1 the point of transfer of ownership of the subject
2 property to Bank of New York Mellon from 2005 through
3 2010 not limited to parties, sources, agreements, and
4 contracts, written or verbal.

5 RESPONSE:
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9 **REQUEST FOR PRODUCTION. 21:** Produce certified copies
10 of all original documentation related to the Committee
11 on Uniform Security Identification Procedures (CUSIP)
12 numbers for the Plaintiffs Scott C Townley and
13 Stephanie A Tashiro-Townley as regulated by the Office
14 of the Comptroller of the Currency (OCC).

15 RESPONSE:
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19 **REQUEST FOR PRODUCTION NO. 22:** Produce a certified
20 copy of the names of investors, individuals, other
21 banks, governments, pension funds that the CWL, Inc.
22 Asset Backed Certificates, Series 2005-10 were sold
23 to, the contact information for the "buyers", the
24 revenue generated by each individual "sale" and the
25 date of sale.

26 RESPONSE:
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30 **REQUEST FOR PRODUCTION. 23:** Produce a certified copy
of GAAP accounting documentation for all monies

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1 received for sales of CWL, Inc. Asset Backed
2 Certificates, Series 2005-10 to trust funds, 401K
3 retirement funds, etc. with dates of debits and
4 credits, amounts of debits and credits and "Pay to the
order of" information.

5 RESPONSE:

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10 **REQUEST FOR PRODUCTION NO. 24:** Produce a certified
11 copy of the original IRS verification letter stating
12 that Bank of New York Mellon is a Real Estate Mortgage
13 Investment Conduit (REMIC) and the Publication 938
14 from 2005-2006 showing Bank of New York Mellon as the
REMIC for CWL Inc., Asset Backed Certificates, Series
2005-10.

15 RESPONSE:

16
17 **REQUEST FOR PRODUCTION NO. 25:** Produce the final Title
18 Insurance Policy complete with the "Indemnification
19 Endorsement" that was issued as "Pool Insurance" as
20 these policies are mandatory coverage(s) for these
21 types of transactions (known as REMIC or REIT's) and
22 that are issued between the Trust (Bank of New York
Mellon representing the Investor) and the Servicer
(Litton Loan) who administers the PSA (Pooling Service
23 Agreement).

24 RESPONSE:


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REQUEST FOR PRODUCTION - BANK OF NEW
YORK MELLON


Scott C. and Stephanie Tashiro-Townley
23639 SE 267th Place,
Maple Valley, WA 98038

1 Presented by

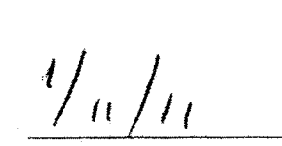
2
3 
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5 Scott C Townley


Date

6
7 & 
8

9 Stephanie Tashiro-Townley


Date

DECLARATION

I _____ am the authorized representative of BANK OF NEW YORK MELLON f/k/a BANK OF NEW YORK, TRUSTEE FOR CERTIFICATE HOLDERS CWL, INC., 2005-10, and declare under penalty of perjury under the laws of the state of Washington that I have read the foregoing answers to the requests for production, know the contents submitted thereof are true and correct certified copies and/or certified originals. In addition, I know the answers I stated in response to the interrogatories to be true and correct.

Signed by,

Date

In the County of _____, state of Washington

C10-1720 - FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION - BANK OF NEW
YORK MELLON

Scott C. and Stephanie Tashiro-Townley
23639 SE 267th Place,
Maple Valley, WA 98038

1
2
3 I _____ swear under
4 oath the documents submitted hereto and/or attached
5 hereto regarding the instant requests for production are
6 true and correct certified copies and/or certified
7 originals and the answers to the interrogatories herein
8 are true and correct.
9
10
11
12 _____

13 DATED: _____
14

15 I _____, a Notary
16 Public, certify that I know or have satisfactory
17 evidence showing that _____
18 appeared before me and signed the above statement.
19
20
21 _____

22 Notary Public
23

24 Seal
25
26
27

28 My commission expires _____
29
30

C10 1720 - FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION - BANK OF NEW
YORK MELLON

Scott C. and Stephanie Tashiro-Townley
23639 SE 267th Place,
Maple Valley, WA 98038

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

STEPHANIE A. TASHIRO-TOWNLEY AND)
SCOTT C. TOWNLEY, husband and wife)

Plaintiffs,)

v.)

COUNTRYWIDE MORTGAGE COMPANY)
(and its subsidiaries); BAC HOME LOANS;)
MORTGAGE ELECTRONIC)
REGISTRATION SYSTEMS INC.; LITTON)
LOAN SERVICING LLP; BANK OF NEW)
YORK MELLON f/k/a BANK OF NEW)
YORK, TRUSTEE FOR)
CERTIFICATEHOLDERS CWL, INC. 2005-)
10; And other unknown (at this juncture))
parties, herein designated as DOES 1 through)
100)

Defendants,

Case No. 2:10-cv-01720-JCC

**DECLARATION OF COUNSEL IN
SUPPORT OF DEFENDANTS' BANK
OF NEW YORK MELLON, LITTON
LOAN SERVICING, AND
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS'
MOTION FOR SANCTIONS
PURSUANT TO F.R.C.P. 26(g)**

1. I am an associate attorney at the law firm of Routh Crabtree Olsen, P.S. I have personal knowledge of the following facts as being true and correct.

2. I have reviewed the pleadings filed by Plaintiffs in this case, and the relevant documents related to the non-judicial foreclosure action of the property at issue.

3. On November 3, 2010, I left a voice mail message for Plaintiffs at 425-413-2367, asking them to contact me about this lawsuit.

DECLARATION OF COUNSEL IN SUPPORT OF
DEFENDANTS' MOTION FOR SANCTIONS
PURSUANT TO F.R.C.P. 26(g) - 1

**ROUTH
CRABTREE
OLSEN, P.S.**

13555 SE 36th St., Ste 300
Bellevue, WA 98006
Telephone: 425.458.2121
Facsimile: 425.458.2131

**Exhibit 3
Page 1 of 2**

1 4. I sent letters to Plaintiffs on November 8, 2010 and November 30, 2010. See
2 Appendix 1.

3 5. As Plaintiffs failed to make any attempt to restrain the Trustee's Sale, the property
4 at issue in this case was sold at a non-judicial foreclosure auction on December 3, 2010 to The
5 Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificateholders
6 CWABS, Inc. Asset-Backed Certificates, Series 2005-10.

7
8 6. I have reviewed the Court's January 6, 2011 Order. To date, Plaintiffs have failed
9 to serve the Defendants I represent with the Amended Complaint.

10 7. On or about January 11, 2011, I received, via U.S. Mail, Plaintiffs' First
11 Interrogatories and Requests for Production.

12 8. The time and corresponding attorney's fees for analyzing the aforementioned
13 discovery demand, and filing a Motion for Sanctions is \$370.50, itemized as follows:
14

- 15 a) .2 hrs. @ \$195/hr.: received discovery demands and brief review with another
16 litigation attorney;
17 b) .3 hrs. @ \$195/hr.: reviewed and analyzed contents of discovery demands;
18 c) 1.4 hrs. @ \$195/hr.: drafted Motion for Sanctions, prepared exhibits.
19

20
21 I declare under penalty of perjury under the laws of the State of Washington that the
22 foregoing is true and correct. This declaration was executed this 19th day of January, 2011 at
23 Bellevue, Washington.

24
25 
26 Joshua S. Schaer, Declarant

DECLARATION OF COUNSEL IN SUPPORT OF
DEFENDANTS' MOTION FOR SANCTIONS
PURSUANT TO F.R.C.P. 26(g) - 2

ROUTH
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Exhibit 3
Page 2 of 2



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Joshua Schaer
Attorney
Telephone: 425.457.7810
Fax: 425.974.8680
jschaer@rcolegal.com

November 8, 2010

Stephanie Tashiro-Townley & Scott Townley
23639 Southeast 267th Place
Maple Valley, WA 98038

Dear Mr. and Mrs. Townley:

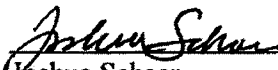
Please be advised that Routh Crabtree Olsen, P.S. has been hired to represent Litton Loan Servicing LP in the lawsuit you filed with the Western District Court of Washington (Case No. C10-1720).

Currently, the foreclosure action on the above-mentioned property has been placed on hold. For a status update, you may check with my office, or visit www.usa-foreclosure.com, as to whether the property is scheduled for sale.

I would again strongly advise you to consult legal counsel regarding your options. Please forward all future correspondence to my attention. If you have any questions, feel free to contact me directly.

Sincerely,

ROUTH CRABTREE OLSEN, P.S.

By: 
Joshua Schaer
Attorney at Law

Phone: 425-413-2637
Fax: 8664007824

Fax

To: Joshua Schaer

From: Stephanie Tashiro-Townley

Fax: 4259748680

Pages: 4

Re: Lis Pendens - Townley

Date: November 30, 2010

Mr. Schaer -

As a courtesy, we are providing you a copy of the Lis Pendens being filed in the County. Per the RCW, our home must be removed from the auction or if sold, NW Trustee and Routh Crabtree will be facing many violations and will be added to an amended complaint.

Be advised that I have sent a fax with the same information to Winston Khan the NW Trustee employee who signed our Amended Notice of Sale.

Thank you for your swift attention on this important matter.

Scott Townley

Stephanie Tashiro-Townley

23639 SE 287th Place, Maple Valley, WA 98038

Exhibit 3 - Appendix 1
Page 2 of 3

» This fax was sent via the Internet using TrustFax! - www.trustfax.com «



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Attorney
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Fax: 425.974.8680
jschaer@rcolegal.com

November 30, 2010

Stephanie Tashiro-Townley & Scott Townley
23639 Southeast 267th Place
Maple Valley, WA 98038

Dear Mr. and Mrs. Townley:

Please be advised that a lis pendens is not a legally proper means of restraining a trustee's sale. I had previously recommended that you seek counsel, who might have provided relevant expertise concerning the Deed of Trust Act (RCW 61.24). I also asked you to contact me directly to discuss the availability of alternatives to foreclosure.


However, it appears you have chosen to continue representing yourselves, and you have not been amenable to a productive conversation. Your threats against this firm and the trustee are not well-taken in light of your ineffective attempt to prevent the property sale. Additional claims will be met with responsive motions, and we reserve the right to pursue sanctions, attorneys' fees, or other permissible remedies.

My letter dated November 8, 2010 was correct – the file was on hold at that time, and you were invited to check back for a status update. Subsequently, the trustee was instructed to proceed again with foreclosure activities. Currently, the sale is scheduled for December 3, 2010. The website usa-foreclosure.com can provide you with information should that date change.

If you have other questions, feel free to contact me directly.

Sincerely,

ROUTH CRABTREE OLSEN, P.S.

By: 
Joshua Schaer
Attorney at Law